

REMARKS

The present amendment is submitted in response to the Office Action dated June 9, 2009, which set a three-month period for response. Filed herewith is a Request for a Two-month Extension of Time, making this amendment due by November 9, 2009.

Claims 1-6 are pending in this application

In the Office action, the disclosure was objected to for an informality. Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,096,002 to Focht in view of U.S. Patent No. 3,865,283 to Hayes. Claims 2-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Focht in view of Hayes and further in view of U.S. Patent No. 3,156,382 to Michell.

In the present amendment, the specification has been amended to add standard headings and to delete reference to the claims, as requested by the Examiner.

The claims have been amended to address the rejection under Section 112, second paragraph.

To more clearly define the invention over the cited references, claims 1 and 2 were amended to additionally define that *"said foam head (1) is configured, such that upon actuation of said foam head (1), said foam head (1) remains joined to said propellant container and is incapable of undesired removal from*

said propellant container (2)". Support for this added language can be found in the original specification in the paragraph bridging pages 3-4.

Amended claims 1 and 2 additionally define that *said foam head is configured to be seatable directly on a valve stem (8), wherein said valve stem is a spring-elastic valve stem, wherein said spring-elastic valve stem (8) is configured to apply a resorting force after actuation of said actuation button (6) for applying a partial amount of foam.*

Neither Focht nor Hayes discloses that the foam head remains joined to the propellant container when the foam head is actuated so that it does not fall off AND a spring-elastic valve stem that applies a restoring force as defined in amended claims 1 and 2.

Therefore, the practitioner would not be led to the present invention by combining the references as proposed. It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much

welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Striker", with a long horizontal flourish extending to the right.

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